

## **REMARKS**

Applicant has received and reviewed an Office Action dated August 24, 2003. The Applicant has amended the claims and added new claims. Applicant believes that these claims, along with the declaration submitted by the inventor Dr. David E.A. Catcheside, places the claims in condition for allowance. Applicant has included an unsigned version of the declaration for reasons of clarity. The amendments to the claims are fully supported by the specification at least at page 20 lines 9-27. Notification to that effect is earnestly solicited.

### **Canceled claims**

In the August 24, 2003 Office Action, the Examiner states that the Applicant has indicated in its response that only claims 1-69 are pending but no indication in the response to cancelled claims 70-127. Claims 70-127 were withdrawn from consideration as being drawn to an invention non-elected without traverse. However, in the Applicant's response dated August 26, 2002 Applicant requested that claims 70-127 be cancelled without prejudice. Applicant respectfully request the acknowledgement of this cancellation without prejudice.

### **Objected to Claims**

Claims 4-7 and 37-41 were objected to by the Examiner. The Examiner has, however, not stated in his Office Action the reason for the objection to these claims. Applicant does not believe that there is any reason for objection to these claims. Applicant respectfully requests withdraw of these objections.

**Rejection under 35 U.S.C. §112, 1st Paragraph**

Claims 1-3, 8-36 and 42-69 are rejected under §112, 1st Paragraph. Applicant respectfully traverses this rejection. Applicant believes that the Amendments to the claims along with the Declaration of Dr. David E.A. Catcheside obviate this rejection.

The Examiner has rejected the same claims indicating that the specification does not support the increase in breadth from a Pugal recombinational hot spot to any eukaryotic recombinational hot spot. Applicant refers to the Declaration of Dr. David E.A. Catcheside demonstrating that the Applicant has specified a representative number of eukaryotic recombinational hot spots. Dr. David E.A. Catcheside acknowledges that only 60 types of eukaryotes exist, not the huge number of species suggested by the Examiner. The Applicant discloses at least 24 different recombinational hotspots. Thus, more than a representative number has been disclosed by the specification.

The Examiner has also suggested that recombinational hotspots must be disclosed in a structure-function relationship. However, a recombinational hot spots is not properly tied to a structure. Rather, it is defined by function. Thus, the only method of disclosing a recombinational hot spot is by its function.

Furthermore the claims are specifically drawn to haploid fungal cell. This narrow construction of the claims along with the description of the eukaryotic hot spots in the literature fully describe the presently claimed cells. Accordingly the present claims comply with §112, 1st paragraph and withdrawal of this rejection is respectfully requested.

**Summary**

In summary each of the pending claims 1-69 and new claims 128-140 are in condition for allowance. The Examiner is invited to contact the Applicant's undersigned representative at the telephone number listed below, if the Examiner believes that in doing so will advance the prosecution of this application.

Respectfully submitted,

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Date: 2-26-04

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